Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	**MB Docket No. 09-182**
	)	
Promoting Diversification of Ownership In the Broadcasting Services	)	**MB Docket No. 07-294**

COMMENTS OF BELO CORP.

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COMMENTS OF BELO CORP.

I. INTRODUCTION

Belo Corp.[1] ("Belo") hereby submits its Comments in response to the *Notice of Proposed Rulemaking* ("*NPRM*") issued on December 22, 2011 in the above-captioned proceeding.[2]

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[1] Belo Corp. is one of the nation's largest pure-play, publicly-traded television companies. It owns and operates 20 television stations, reaching more than 14 percent of U.S. television households in 15 markets. Belo stations consistently deliver distinguished journalism for which they have received significant industry recognition including 13 Alfred I. DuPont-Columbia University Silver Baton Awards; 12 George Foster Peabody Awards; and 37 national Edward R. Murrow Awards, all since 2000, and in each case more than any other commercial station group in the nation. Additionally, the Company has created regional cable news channels in Texas and the Northwest, increasing its impact in those regions. Belo has been in the media business for 170 years. The Company published its first newspaper in 1842, entered the radio business in 1922, and received its first television license in 1950 to operate WFAA-TV in Dallas-Fort Worth, Texas. In 2008, Belo spun off A. H. Belo Corporation ("A. H. Belo") and its newspapers and related websites to its shareholders. While Belo and A. H. Belo today are separate, publicly-traded companies, the FCC's ownership limitations remain applicable to both because the companies share several common principals. A. H. Belo is filing separate comments in this proceeding in support of eliminating or relaxing the FCC's newspaper/broadcast cross-ownership rule, which Belo supports. See Comments of A. H. Belo, MB Docket No. 09-182 (filed Mar. 5, 2012) (A. H. Belo Comments).

[2] *2010 Quadrennial Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, FCC 11-186, MB 09-182 (rel. Dec. 22, 2011) ("*NPRM*").

In 2010, Belo and numerous other parties presented overwhelming evidence in comments responding to the Commission's *Notice of Inquiry* ("*NOI*")[3] that the local television ownership (or "duopoly") rule should be retired in light of the exponential expansion of the public's options for local news and information far beyond broadcast television.[4] The comments also demonstrated, as Belo has urged in prior ownership proceedings, that duopolies and other joint efforts between stations benefit the public interest by fostering localism, freeing resources for costly newsgathering and investigative journalism, and allowing broadcasters to remain competitive in the burgeoning media marketplace.

Nearly two years after these comments were submitted, the Internet's profound and ever-increasing impact on the media marketplace is undeniable. Unfortunately, while the technological evolution of media has continued to accelerate, the Commission's periodic reviews of the local television ownership rule have left it unchanged for more than a decade. Accordingly, Belo again urges the Commission to eliminate or substantially relax the local television ownership rule. Further, the Commission must recognize that broadcasters' ability to multicast, though clearly beneficial to licensees and the audiences they serve, is not a substitute for relief from outdated ownership restrictions. Finally, Belo submits that in the 21st century media marketplace, broadcasters must retain the ability to use local news, management and shared service

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[3] *See 2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Inquiry, 25 FCC Rcd 6086 (2010) ("*NOI*").

[4] Comments of Belo Corp., MB Docket No. 09-182, 1-9 (July 12, 2010) ("Belo *NOI* Comments"). *See also* Comments of Belo Corp., MB Docket No. 06-121 (filed Dec. 11, 2007); Comments of Belo Corp., MB Docket No. 06-121 (filed Oct. 23, 2006); Comments of Belo Corp., MB Docket No. 02-277 (filed Jan. 2, 2003); Reply Comments of Belo Corp., MB Docket No. 02-277 (filed Feb. 3, 2003).

agreements, and other innovative cooperative arrangements to achieve the efficiencies necessary to support robust local programming efforts and sustain the vital newsgathering and investigative functions provided by broadcast television stations.

II. MARKET REALITIES REQUIRE THE ELIMINATION OR SUBSTANTIAL RELAXATION OF THE LOCAL TELEVISION OWNERSHIP RULE

A. The FCC's Proposal to Maintain the Current Limits on Local Television Ownership Cannot Be Reconciled with the Extensive Evidence of Intense Competition for Audiences and Advertising Revenue from a Host of New and Legacy Media

Belo's award-winning stations demonstrate a continued commitment to local news, investigative reporting, local sports, public affairs, political debates, and interviews.[5] As noted above and discussed in A. H. Belo's separate comments, Belo stations operate with a strong focus on local news and public service and have been honored with numerous Alfred I. duPont-Columbia University Silver Baton awards, George Foster Peabody awards, and Edward R. Murrow awards.[6]

While Belo remains dedicated to the public interest, the competitive marketplace for audience and advertising revenue has grown to include not just television broadcasters, but also cable operators, other multichannel video programming distributors ("MVPDs"), the Internet, and myriad other print and electronic content providers. Hence, Belo disagrees strongly with the *NPRM's* suggestion that "local broadcast television stations compete directly with each other" and that competition between local

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[5] Belo's 20 broadcast television stations are: WFAA-TV (Dallas/Fort Worth), KENS-TV (San Antonio), KHOU-TV (Houston), KVUE-TV (Austin, Tex.), KASW-TV (Phoenix), KMSB-TV (Tucson, Az.), KTTU-TV (Tucson, Az.), KTVK-TV (Phoenix), KGW-TV (Portland, Ore.), KING-TV (Seattle/Tacoma), KONG-TV (Seattle/Tacoma), KREM-TV (Spokane, Wash.), KSKN-TV (Spokane, Wash.), KTVB-TV (Boise, Id.), WCNC-TV (Charlotte), WHAS-TV (Louisville), WUPL-TV (New Orleans), WVEC-TV (Hampton/Norfolk, Va.), WWL-TV (New Orleans), KMOV-TV (St. Louis).

[6] *See supra* note 1; A. H. Belo Comments, at 8-10.

broadcast stations and cable networks or other programming alternatives available via the Internet is of "limited relevance."[7] Rather, even a cursory examination of the evolving media ecosystem shows that the Commission's television ownership rules, premised on a market restricted to competition among local television broadcasters only, are outdated and long overdue for modification. In particular, and at a minimum, the Commission should eliminate or update its "eight voices" test to take into account the numerous "alternative sources of video programming" that the *NPRM* itself recognizes and reflect the dynamic change in market conditions since 2006.[8]

The FCC acknowledges in the *NPRM* that "[t]he proliferation of broadband Internet and other new technologies has had a dramatic impact on the media marketplace."[9] The *NPRM* also points to the *FCC's Future of Media Working Group Report's* findings that "the Internet has created more diversity and choice in news and information, and that most communities have seen a rise in the number and diversity of outlets, as well as more diversity in commentary and analysis."[10]

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[7] *NPRM*, ¶ 33. The *NPRM* erroneously observes that "national cable networks generally do not alter their programming decisions based on the actions of individual local television stations." On the contrary, ESPN recently has expanded its local footprint by introducing hyper-local websites in the Belo market of Dallas/Fort Worth in addition to four other cities. Eric Fisher, Sports Business Journal Daily, *ESPN: The Local Leader in Sports?* (Sept. 14, 2009), *available at* http://www.sportsbusinessdaily.com/Journal/Issues/2009/09/20090914/This-Weeks-News/ESPN-The-Local-Leader-In-Sports.aspx. The limitless reach of the Internet makes possible similar undertakings by virtually any significant content supplier.

[8] *See NPRM*, ¶ 47. In this regard, it is noteworthy that the Commission proposes to maintain essentially the same "voices" test that the D.C. Circuit found arbitrary more than ten years ago when it remanded the local television ownership rule to the Commission, challenging it to justify its decision to include only full power television stations as "voices" to be considered to measure competition. *See Sinclair Broadcasting Group v. FCC,* 284 F.3d 148 (D.C. Cir. 2002).

[9] *NPRM*, ¶ 2.

[10] *NPRM*, ¶ 133 (citing Steve Waldman & the Working Group on Information Needs of Communities, *The Information Needs of Communities: The Changing Media Landscape in a Broadband Age*, at 119-20 (June 2011) (the "*Report*"), *available at*

Similarly, in the National Broadband Plan, the FCC recognized that "[v]ideo, television and broadband are converging in the home and on mobile handsets."[11] In a February 2012 interview, FCC Chairman Julius Genachowski commented that "in today's world, virtually all broadband issues affect broadcasters."[12] At the recent 2012 Consumer Electronics Show, Chairman Genachowski celebrated the omnipresence of the Internet, stating that "virtually every new product on the CES floor is fueled by broadband Internet. . . . If you shut off the Internet, virtually nothing on the CES floor would work."[13] In other words, though broadband adoption is not yet universal, innovative new broadband technology is having a profound and transformative effect on the media marketplace. In fact, according to Nielsen, more than three quarters of homes already subscribe to broadband Internet.[14]

The implicit suggestion in the *NPRM* that broadband access must reach 100 percent before Internet-based sources of news and information become a sufficient source of competition to over-the-air broadcast stations to warrant deregulation is plainly misguided.[15] To the contrary, the Internet clearly has "arrived" as a dominant vehicle for

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http://transition fcc.gov/osp/inc-report/The_Information_Needs_of_Communities.pdf).

[11] Omnibus Broadband Initiative, FCC, Connecting America: The National Broadband Plan, at 17 (2010) ("National Broadband Plan").

[12] John Eggerton, *"Smart Broadcasting"* Is *Broadband*, Broadcasting & Cable, Feb. 13, 2012, at 11.

[13] Remarks of FCC Chairman Julius Genachowski, 2012 Consumer Electronics Show (Jan. 11, 2012), *available at* http://transition fcc.gov/Daily_Releases/Daily_Business/2012/db0112/DOC-311974A1.doc.

[14] Nielsenwire, *Report: How Americans are Spending their Media Time… and Money* (Feb. 9, 2012), *available at* http://blog nielsen.com/nielsenwire/online_mobile/report-how-americans-are-spending-their-media-time-and-money/

[15] *See NPRM*, ¶ 4 ("In short, the media marketplace is in transition, particularly as a result of broadband Internet; but new media are not yet available as ubiquitously as traditional broadcast media. Our nation has not yet reached universal deployment or adoption of broadband.").

delivery of news and information.[16] Further, the Commission's narrow market definition ignores the reality that Belo and other broadcasters compete with a bevy of outlets for audience and advertising revenue. Rather, as clearly stated in the Department of Justice and Federal Trade Commission's 2010 Horizontal Merger Guidelines, "[a]ll firms that currently earn revenues in the relevant market are considered market participants."[17]

Television broadcasters, cable operators, other MVPDs, Internet content providers, newspapers, and other new and legacy media all compete for revenue in the advertising market. As a result, broadcasters' advertising revenues are under increasing pressure. But instead of recognizing this elementary cause and effect, the *NPRM* turns a blind eye to the real-world, multimedia marketplace in which broadcasters compete. The truth is inescapable, however, and must inform the Commission's decisions here. Local broadcasters have had to produce more quality news on smaller budgets in order to effectively compete in a marketplace overflowing with consumer choice,[18] and they must continue to develop new business models to sustain their operations and contend with a host of new and dynamic competitors.

In its *NOI* comments, Belo detailed the competition in the Seattle market, home to Belo's duopoly of KING-TV and KONG-TV, as illustrative of the highly competitive

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[16] According a recent study conducted by the Pew Research Center and the Knight Foundation, "[t]he [I]nternet has already surpassed newspapers as a source Americans turn to for national and international news. The findings from this survey now show its emerging role as a source for local news and information as well." Pew Project for Excellence in Journalism, Pew Internet & American Life Project & Knight Foundation, *How People Learn About Their Local Community* (Sept. 2011) at 22, *available at* http://www knightfoundation.org/media/uploads/publication_pdfs/Pew_Knight_Local_News_Report_FINAL.pdf (last visited Sept. 27, 2011) ("*Pew Study*").

[17] U.S. Dep't of Justice & Fed. Trade Comm'n, Horizontal Merger Guidelines, at § 5.1 (2010) ("*2010 Merger Guidelines*"), *available at* http://www.justice.gov/atr/public/guidelines/hmg-2010.pdf.

[18] *Report*, at 79.

news and informational marketplace in which television broadcasters now operate.[19] Belo's experience in Seattle and other markets is confirmed in the Commission's own studies. In June 2011, as noted above, the FCC's Future of Media Working Group, led by former journalist Steve Waldman, released a comprehensive analysis of the current media landscape. As the Waldman Group's *Report* confirms, this environment has contributed to a substantial drop in broadcast television advertising revenues since the FCC last considered its local television ownership rule. In fact, the *Report* indicates that between 1998 and 2008, local television news pre-tax profits dropped 56.3 percent.[20] According to Pew, the Internet's local focus "poses a major challenge to more traditional news providers[.]"[21]

In short, a standalone "local television market" no longer exists. Against this backdrop, Chairman Genachowski recently declared that he is "particularly looking forward to any ways [the FCC] can work with broadcasters to remove barriers to innovation and success for broadcasters in a multiplatform broadband world."[22] Given the financial and competitive challenges facing broadcasters today, Belo submits that it is more important than ever for the FCC to update its local broadcast ownership rules, which clearly constitute "barriers to innovation and success for broadcasters." Repeal or meaningful relaxation of the duopoly rule will enable broadcasters to compete on a level playing field with their competitors, foster their local service missions, and continue

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[19] Belo *NOI* Comments, at 3-4.

[20] *Report*, at 73-74 (citing a National Association of Broadcasters report).

[21] *Pew Study*, at 22.

[22] John Eggerton, *"Smart Broadcasting"* Is *Broadband*, Broadcasting & Cable, Feb. 13, 2012, at 11.

producing the high-quality local news and investigative journalism that is essential to an informed public.

B. **<u>The Current Duopoly Rule Should Be Eliminated or Replaced by a More Flexible Standard That Permits the Benefits of Common Ownership to be Realized in a Broad Range of Markets</u>**

Belo currently owns and operates television duopolies in five television markets: (1) Seattle-Tacoma; (2) Phoenix; (3) Tucson; (4) Spokane; and (5) New Orleans. As Belo demonstrated in its *NOI* Comments, these duopolies allow stations to realize the efficiencies inherent in joint ownership and to pass them on to viewers, in some cases by providing daily newscasts on stations that did not do so before joint ownership.[23] The efficiencies and cost-savings that can be achieved through duopolies also enable Belo stations to continue to provide more comprehensive coverage of local and regional politics, more local public affairs programming, and a variety of cross-media offerings.[24]

Belo's duopoly ownership experience is not unique; as the Commission acknowledged in the *2008 Order*, "owning a second in-market station can result in substantial savings in overhead and management costs."[25] Strong economic incentives—particularly competition for local audience share and advertising revenues—compel many duopoly operators to add news and other community-oriented programming to second stations. Furthermore, the highly competitive nature of the media marketplace, as well as vigorous competition among local newscasts in particular, generally give stations

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[23] Belo *NOI* Comments, at 6-9.

[24] *Id*.

[25] *2008 Order*, ¶ 98.

strong incentives to dedicate additional resources to the production of more and higher quality news and other programming of local interest.

Unfortunately, the current eight voices restriction of the local television ownership rule effectively limit duopolies to approximately the fifty largest markets. As a result, the rule precludes stations in smaller and mid-sized markets from reaping the financial benefits and operating efficiencies that can result from joint ownership.

For example, the No. 53-ranked Providence, Rhode Island-New Bedford, Massachusetts DMA has only seven commercial stations.[26] The No. 57-ranked Richmond-Petersburg, Virginia DMA has just five market area commercial stations.[27] In fact, in DMA markets ranked 61 or higher, just fifteen out of 150 markets have eight or more voices; thus, joint ownership is permitted in only 10% of these markets under the duopoly rule.[28] Belo submits that there is no reason to deprive consumers in the excluded mid-sized and smaller markets of the improved and increased newscasts, news coverage, and local website offerings made possible through joint ownership.

C. <u>The Commission Must Add Flexibility to Its Waiver Standards</u>

The *NPRM* asks whether the Commission should keep its current failed/failing station waiver policy or "adopt a standard based simply on structural considerations."[29] Belo submits that any waiver standard adopted by the Commission must be a flexible one that affords a "hard look" to any and all factors that may be relevant to reliably and

[26] Television & Cable Factbook 2012, Stations Volume 1, at A-2 (Albert Warren, ed., 2012).

[27] *Id.*

[28] *Id.*, at A-3-to-A-4.

[29] *NPRM*, ¶ 54.

effectively serving the information needs of the local audience.[30] A reasonable waiver standard would not require, as the current test does, that a station fail or be failing before it can qualify for a waiver.[31]

By restricting waivers to failing stations or even to financially troubled operators, the Commission unnecessarily limits the social welfare and public interest benefits that joint ownership delivers. The current regime also fails to give adequate weight to the fact that, by combining two established stations and allowing them to operate with the efficiencies inherent in duopoly ownership, broadcasters can more readily devote additional resources to local news and other programming efforts. The Commission should take into account the ability of waiver applicants to sustain or increase local news and programming and take a "hard look" at any and all other factors demonstrating that the public interest will be served by a proposed combination.[32] The antitrust laws will continue to serve as a safeguard, in the unlikely event that any particular combination might pose a unique competitive threat.

III. MULTICASTING IS ESSENTIAL TO THE VIABILITY OF OVER-THE-AIR BROADCASTING AND THE LOCAL SERVICE IT PROVIDES, BUT DOES NOT ELIMINATE THE NEED FOR REGULATORY RELIEF

In declining to tighten the television duopoly rule based on broadcasters' ability to multicast in the *2006 Quadrennial Review Order*, the Commission correctly reasoned that it should "move cautiously and not rely on an incomplete transition to a new technology

[30] *See WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

[31] *See* 47 C.F.R. § 73.3555 note 7.

[32] *See WAIT Radio*, 418 F.2d at 1157.

as a basis for making the local television rule more restrictive."[33] In the current *NPRM*, the Commission again seeks comment on the impact of multicasting on its duopoly rule and asks whether there are "benefits unique to common ownership that cannot be replicated by multicasting."[34] This question largely misses the point, and stands the statutory review mandate on its head. Less than three years removed from the DTV transition, broadcasters are only just beginning to tap the potential of multicasting by exploring innovative uses of their digital spectrum to better serve their communities. And while many of those potential uses may be viable as secondary or supplemental undertakings by established broadcasters, they would not provide the synergies or cost savings that are produced in a joint ownership situation. Accordingly, the Commission should again reject any suggestion that the ability to multicast somehow is equivalent to, or eliminates the need for, greater opportunities for common ownership in local television markets.

Significantly, Congress and the FCC have failed thus far to grant broadcasters must-carry rights for multicast channels. With more than 90 percent of American households now receiving broadcast programming via a subscription television service,[35] stations have no guarantee that the programming aired on multicast streams will reach a substantial part of their viewing audiences. Even with Belo's best efforts to provide

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[33] Brief for Respondent at 84, *Prometheus Radio Project v. FCC*, 652 F.3d 431 (3d Cir. 2011) ("*Prometheus II*"), 2010 WL 2867125.

[34] *NPRM*, ¶ 57.

[35] A February, 2012 Nielsen study showed that 90.4 percent of American households pay for cable, telephone company-provided television or satellite. Nielsenwire, *Report: How Americans are Spending their Media Time… and Money* (Feb. 9, 2012), *available at* http://blog nielsen.com/nielsenwire/online_mobile/report-how-americans-are-spending-their-media-time-and-money/

innovative hyper-local and niche programming, many advertisers remain reluctant to purchase airtime under these circumstances. An additional station, such as one of Belo's duopoly outlets, will have must-carry rights for its primary program stream and likely will have an established programming lineup and a stable of regular advertising clients. Without the assurance of must-carry rights, however, Belo and other broadcasters face significant obstacles in their efforts to expand their multicast program offerings.

Further, multicasting involves a tradeoff between the station's ability to provide a robust HD signal, additional program streams, and/or mobile DTV, and therefore cannot be viewed in any sense as a fourfold expansion of delivery capacity. As the *NPRM* correctly recognizes,[36] broadcasters have options regarding how to use their spectrum and are not required to multicast. Belo and many other broadcasters are committed to using their digital spectrum to develop mobile television service as a new, robust means to deliver news and information, but doing so may limit broadcasters' ability to multicast.

Belo is actively involved in the Open Mobile Video Coalition ("OMVC"), an alliance of U.S. commercial and public broadcasters formed to accelerate the development and rollout of mobile DTV products and services. In January 2012, OMVC announced that 120 stations are broadcasting mobile DTV signals, a one-year increase of 70 percent.[37] Belo station KONG-DT (Seattle) serves as an OMVC primary model station, providing consumer electronics manufacturers an opportunity to test receivers and consumer devices with a real world over-the-air signal. Similarly, Belo is one of the

[36] *NPRM*, ¶ 57.

[37] Open Mobile Video Coalition, *Mobile Digital TV Expands Nationwide to 120 Stations*, at 1 (Jan. 6, 2011), *available at* http://www.openmobilevideo.com/_assets/docs/press-releases/2012/OMVC-at-CES-2012-FINAL.pdf ("*Mobile Digital TV Expands*").

nine major broadcast companies that formed Pearl Mobile DTV Company LLC, a joint venture designed to develop a new national mobile video content service.[38] The mobile content provided by Pearl will include local and national news, sports, and entertainment programming, and live video. Pearl is among a group planning to launch Dyle™ Mobile TV, which will be available from more than 72 stations in 32 markets and reach approximately half of Americans.[39]

In addition to offering mobile content, Belo and other TV broadcasters are using their multicasting capacity in a variety of others ways to provide diverse program content and address local audience needs and interests in a more in-depth fashion than may be possible with a single program stream. For example, Belo broadcasts extensive local news and weather programming on a multicast channel for KTVB in Boise, Idaho, offering expanded coverage of community events, political content, and local and regional sports programming. In addition, Belo stations routinely use multicast capacity to provide emergency weather reports and information, such as Amber Alerts and school closings.[40]

Multicasting also offers the opportunity for third-party programmers to enter the video marketplace without large capital outlays, thereby increasing source and content diversity. In fact, Belo's multicasting outlets provide niche programming to underserved audiences that would not be feasible in a single-channel environment. Belo airs Live Well Network, with lifestyle programming geared toward women, on multicast channels

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[38] In addition to Belo, the members of the Pearl venture are Cox, Scripps, Gannett, Hearst, Media General, Meredith, Post-Newsweek, and Raycom Media. *Mobile Digital TV Expands*, at 1.

[39] *Mobile Digital TV Expands*, at 1.

[40] *See generally* Comments of Belo Corp., GN Docket No 09-47, NBP Public Notice 26 (Dec. 21, 2009).

in five markets.[41] Belo stations provide the Spanish-language programming of the Estrella TV network on multicast channels in four markets.[42] And Bounce TV, with a target audience of 25-to-54-year-old African Americans, airs on a multicast channel of Belo station KHOU-TV in Houston.[43]

Any effort by the Commission to restrict the permissible use of multicast channels or use multicasting as a basis to restrict ownership opportunities also would be at odds with the policy objectives reflected in the FCC's National Broadband Plan and the recently enacted incentive auction legislation. Passed on Feb. 17, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (H.R. 3630) grants the FCC the authority to conduct incentive auctions[44] and gives broadcast television licensees the option to relinquish their channels or agree to channel sharing in return for a portion of the auction proceeds for its relinquished spectrum.[45] The legislation demonstrates Congress' clear intent to foster cooperative arrangements between stations; any change in the Commission's local ownership or attribution rules with regard to multicasting would be inconsistent with that intent and could ultimately lead to a loss by viewers of access to diverse program content they value.

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[41] Belo airs the Live Well network on WFAA Dallas-Fort Worth, KMOV St. Louis, WWL New Orleans, WVEC Norfolk-Portsmouth, Va., and WCNC Charlotte, N.C. *See* Harry A. Jessel, TVnewscheck.com, *ABC's Multicast Play: All's Well With Live Well* (Feb. 22, 2011), *available at* http://www.tvnewscheck.com/article/2011/02/22/49295/abcs-multicast-play-alls-well-with-live-well.

[42] *See* Michael Malone, Broadcasting & Cable, *Four Belo Stations Grab Estrella TV* (May 19, 2009), *available at* http://www.broadcastingcable.com/article/232952-Four_Belo_Stations_Grab_Estrella_TV.php.

[43] Bounce TV, Find Us, *available at* http://www.bouncetv.com/find/ (last visited Feb. 24, 2012); *see also* R. Thomas Umstead, Multichannel News, *Broadcasters in Black*, 12-13 (Feb. 13, 2012).

[44] Middle Class Tax Relief and Job Creation Act of 2012, H.R. 3630, 112th Cong. (2012).

[45] *Id.*, § 6403.

In sum, Belo submits that a television broadcaster's multicasting capabilities provide no basis for the Commission to maintain or tighten its already overly-restrictive and outdated common ownership rules. Instead, the Commission should encourage a flexible and innovative approach to the use of multicasting and should resist any suggestions to increase regulatory burdens or restrict permissible use of secondary programming streams. With the market for multicasting and mobile DTV still emerging, additional regulatory burdens would stifle innovation, chill investment, and unnecessarily limit the options available to broadcasters as they juggle the spectrum needs of HD program streams, multicasting, mobile DTV, and other alternatives that may emerge.

IV. BROADCASTERS MUST RETAIN THE ABILITY TO USE INNOVATIVE COST-SHARING ARRANGEMENTS IN ORDER TO CONTINUE TO COMPETE EFFECTIVELY AND PROVIDE QUALITY LOCAL NEWS AND OTHER PROGRAMMING

Joint sales, shared services, local news service, and management and consulting agreements are reflections of the marketplace necessity of finding ways to cut costs and achieve greater operating efficiencies than possible under the FCC's archaic television duopoly and other media ownership restrictions, which limit broadcasters in most markets to ownership of a single station. These otherwise unattainable efficiencies foster the type of quality, in-depth journalism central to the public interest. To that end, Belo urges the Commission to reject any invitation to expand the scope of its attribution rules to comprehend these beneficial arrangements and thus, in most cases, to preclude them.[46]

Belo's experience with local news service ("LNS") agreements and shared service agreements ("SSAs") demonstrates how these arrangements can facilitate local news and other local programming that might not otherwise be possible. For example, Belo

[46] *See NPRM*, ¶¶ 204-05.

recently entered into an SSA in Tucson that includes Belo's KMSB-KTTU duopoly and Raycom's KOLD-TV.[47] Despite a depressed local economy that dropped Tucson from No. 67 to No. 70 in the most recent Nielsen DMA rankings with a loss of 20,000 television households, the SSA has allowed KMSB to add *Fox 11 Tucson Now Daybreak*, a new two-hour news broadcast.[48]

Any decision to make LNS agreements and SSAs attributable would depart from well-established Commission and staff guidelines without justification. The FCC repeatedly has recognized that cooperative agreements serve the public interest by enabling television broadcasters to realize efficiencies by spreading costs across multiple platforms,[49] and the record is devoid of any reason to change that approach now.[50] In addition, as with multicasting, any change in the Commission's attribution rules could undermine Congress' clear intent in the spectrum auction process to foster cooperative channel sharing and other similar arrangements between stations.

V. <u>CONCLUSION</u>

For the above reasons, Belo respectfully submits that the FCC should eliminate or substantially relax the local television ownership rule. Further, the Commission should reject any calls for unnecessary new restrictions on multicasting or local news,

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[47] Michael Malone, *Raycom-Belo Partnership In Arizona Starts "Now"*, Broadcasting & Cable, Jan. 30, 2012, at 20.

[48] *Id.*

[49] *See, e.g.*, *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd 12809, ¶ 60 (1997); *Elimination of Unnecessary Broadcast Regulation,* Second Report and Order, 59 RR 2d 1500, 1515 (1986).

[50] *See NPRM*, Statement of Commissioner Robert M. McDowell, Approving in Part, Concurring in Part, FCC 11-186 (Dec. 22, 2011). "I . . . have serious concerns regarding the possible attribution of agreements broadly relating to the programming and/or operation of broadcast stations. I have not seen any data, nor is there any evidence cited in the notice, that would support such regulation."

management, and shared service agreements, all of which generate efficiencies that are crucial to maintaining local newsgathering, investigative reporting, and other public service programming efforts.

Respectfully submitted,

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March 5, 2012

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